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Filing date: **07/13/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91196222
Party	Defendant Essential Sound Products Inc.
Correspondence Address	STEPHON E JOHNSON LAW OFFICES OF STEPHON E JOHNSON PLLC 535 GRISWOLD ST STE 1330 DETROIT, MI 48226 UNITED STATES sjlaw@earthlink.net
Submission	Other Motions/Papers
Filer's Name	Stephon E. Johnson
Filer's e-mail	sjlaw@earthlink.net
Signature	/Stephon E. Johnson/
Date	07/13/2011
Attachments	ESP Shibuya v Essential Sound Products CACD 11-4463 complaint.pdf ( 15 pages )(630436 bytes )

ORIGINAL

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CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

BY: JP

1 John K. Buche (Bar No. 239477)  
2 Sean M. Sullivan (Bar No. 254372)  
3 BUCHE AND ASSOCIATES, P.C.  
4 875 Prospect, Suite 305  
5 La Jolla, California 92037  
6 (858) 459-9111  
7 (858) 459-9120 fax  
8 jbuche@buchelaw.com  
9 ssullivan@buchelaw.com

7 Ronald S. Bienstock (*Pro Hac Vice Forthcoming*)  
8 BIENSTOCK & MICHAEL, P.C.  
9 Continental Plaza  
10 411 Hackensack, NJ 07601  
11 (201) 525-0300  
12 (201) 525-0133 fax  
13 rbienstock@musicesq.com

12 Attorneys for Plaintiffs  
13 ESP Shibuya Enterprises, Inc. and ESP Co., Ltd.

14 UNITED STATES DISTRICT COURT  
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
16 (WESTERN DIVISION - LOS ANGELES)

CV11-04463 PA (JSx)

Case No. \_\_\_\_\_

18 **ESP SHIBUYA ENTERPRISES,**  
19 **INC., a California corporation, and**  
20 **E.S.P. CO., LTD., a Japanese corpo-**  
21 **ration,**

22 **Plaintiffs,**

23 v.

24 **ESSENTIAL SOUND PRODUCTS,**  
25 **INC., a Michigan corporation,**

26 **Defendant.**  
27  
28

**COMPLAINT FOR TRADEMARK  
INFRINGEMENT AND UNFAIR  
COMPETITION**

**BY FAX**

**DEMAND FOR JURY TRIAL**

(T)  
I/S  
21

(CV-31 given)

1 Plaintiffs ESP Shibuya Enterprises, Inc. (“ESP USA”) and E.S.P. Co.,  
2 Ltd. (“ESP JAPAN”) (collectively, “Plaintiffs” or “ESP”) by and through their  
3 attorneys, Bienstock & Michael, P.C. and Buche & Associates, P.C., as and for  
4 their Complaint against defendant Essential Sound Products, Inc. (“Defendant”  
5 or “Essential”) allege as follows:

6 1. This is an action, in part, for trademark infringement, false desig-  
7 nation of origin, false representation and unfair competition under the Lanham  
8 Act, 15 U.S.C. §§ 1051, *et seq.*, and for related claims under California state  
9 law.

#### 10 11 **THE PARTIES**

12 2. Plaintiff ESP Japan is a Japanese corporation located at 2-10-11  
13 Takada, Tokyo, Toshima-Ku 171 0033, Japan, and is engaged in business as a  
14 manufacturer of high quality ESP electric guitars and bass guitars, which sells  
15 world-wide, including within the State of California.

16 3. Plaintiff ESP USA is a California corporation with its principal of-  
17 fice located at 10913 Vanowen Street, Hollywood, California 91605, and is en-  
18 gaged in business both as a manufacturer and domestic and international seller  
19 of both ESP and LTD electric guitars and bass guitars, and which does business  
20 throughout the U. S. and within the State of California through dealers and rep-  
21 resentatives.

22 4. Upon information and belief, Defendant Essential is a Michigan  
23 corporation having an office and place of business at 2616 Winter Park Road,  
24 Rochester Hills, Rochester, Michigan 48309.

#### 25 26 **JURISDICTION AND VENUE**

27 5. This is, in part, a complaint for Trademark Infringement and Un-  
28 fair Competition arising under Sections 32 and 43(a) of the Lanham Act, 15

1 U.S.C. §§ 1114(1) & 1125(a), and for related claims of trademark infringement  
2 and unfair competition under California state statutory and common law.

3 6. The Court has original subject matter jurisdiction pursuant to 28  
4 U.S.C. §§ 1331, 1338(a) and 15 U.S.C. § 1121. This Court has supplemental  
5 jurisdiction over any state law claims pursuant to 28 U.S.C. §§ 1338(b) and  
6 1367.

7 7. This Court has personal jurisdiction over the Defendant arising  
8 from Defendant's commission of tortious acts within the state of California and  
9 this District and Defendant's purposeful availment of the privilege of conduct-  
10 ing activities within California, thus invoking the benefits and protections of  
11 California's laws. Defendant transacts business in the State of California and  
12 in this District, and maintains contacts within California. Defendant purpose-  
13 fully directs its business activities in California, including by advertising, pro-  
14 moting, selling, and/or offering products and services for sale in California, in  
15 this District, and elsewhere.

16 8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) as  
17 this is a judicial district in which a substantial part of the events giving rise to  
18 the claims occurred, and Section 1391(c) because, as a corporation, Defendant  
19 resides in this District, and conducts substantial business in this District by of-  
20 fering for sale, and selling, goods or services bearing the infringing mark to res-  
21 idents of California and this District.

## 22 **BACKGROUND**

23 9. ESP has sold guitars and basses in the United States, including the  
24 State of California, bearing the trademark "ESP" (the "ESP Trademark") since  
25 1976.  
26

27 10. The ESP Trademark has been registered in the United States with  
28 the U.S. Patent and Trademark Office ("USPTO") in accordance with provi-

1 sions of the Lanham Act, and ESP Japan is the owner of Registration No.  
2 1,205,405 for the ESP Logo in International Class 15 for use on electric guitars  
3 and structural parts thereof. ESP USA is the exclusive licensee of the ESP  
4 Trademark in the United States. A copy of the '405 registration certificate is  
5 attached as Exhibit A.

6 11. The ESP Trademark is an incontestable trademark.

7 12. For more than thirty years, ESP has invested significant amounts  
8 of money, time and effort in promoting and advertising the ESP Trademark. As  
9 a result of such promotion, ESP has achieved substantial commercial success  
10 and the ESP Trademark has become well-known and favorable to the public.

11 13. Upon information and belief, Essential manufactures and sells A/C  
12 power cords, A/C multiple power outlet strips, A/C plugs and outlets, A/C pow-  
13 er line conditioners, A/C power surge suppressors, male and female IEC elec-  
14 trical connections and jacks, and audio and video electronic cables used to  
15 transmit signals between electronic equipment; all for use in conjunction with  
16 musical instruments and musical instrument amplifiers, on a retail basis.

17 14. Upon information and belief, Essential manufactures and sells on a  
18 retail basis products in the same channels of trade as ESP—within the same  
19 music products industry as ESP—that prominently bear literal and design ele-  
20 ments that are strikingly and confusingly similar, if not legally equivalent to the  
21 ESP Trademark (respectively, “Essential’s Infringing Goods” and “Infringing  
22 Mark”).

23 15. Upon information and belief, Essential’s Infringing Goods have  
24 been sold and continue to be sold to the public throughout the United States, in-  
25 cluding the State of California, and within this District.

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**COUNT I**

**TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114(a)**

16. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as though fully set forth herein.

17. Defendant's infringing activities are likely to cause and have caused confusion, mistake and deception among the general consuming public and trade as to the origin, affiliation and quality of Essential's Infringing Goods.

18. Defendant's unlawful actions constitute infringement of the ESP Trademark in violation of ESP's rights under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

19. Upon information and belief, Essential has been and is infringing on the ESP Trademark with full knowledge and willful disregard for ESP's exclusive rights and knowing that the ESP Trademark is associated exclusively with ESP.

20. Upon information and belief, Defendant's conduct is intentional, willful, wanton and malicious, and is undertaken with intent to deceive and reap the benefit of ESP's trade identity and goodwill and to give Essential's Infringing Goods a market acceptance and salability that they otherwise would not enjoy. ESP therefore is entitled to an award of its reasonable attorneys' fees and costs, and treble its actual damages, pursuant to 15 U.S.C. § 1117(a). ESP also is entitled to, among other things, the cost of corrective advertising.

21. ESP has no adequate remedy at law, and is suffering irreparable harm and damage as a result of the acts of Defendants as aforesaid in an amount to be determined at trial.

22. Defendant's unlawful actions have caused ESP irreparable harm for which ESP is entitled to permanent injunctive relief under 15 U.S.C. § 1116.

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**COUNT II**

**TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1125(a)**

23. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as though fully set forth herein.

24. Essential has affixed, applied, or used in connection with the sale of Essential's Infringing Goods, false descriptions and representations, which tend falsely to describe or represent that the goods offered by Defendants are sponsored by, authorized by or connected with ESP.

25. Upon information and belief, the activities of Defendant complained of herein constitute willful and intentional uses, appropriations and infringements of the ESP Trademark; completely and deliberately disregarding ESP's rights and were commenced and have continued in spite of Defendant's knowledge that the use of ESP's Trademarks was and is in direct contravention of ESP's rights, all in violation of 15 U.S.C. § 1125(a).

26. ESP has no adequate remedy at law, and is suffering irreparable harm and damage as a result of the acts of Defendant as aforesaid in an amount to be determined at trial.

27. ESP is informed and believes, and on that basis alleges, that Defendant's aforesaid infringing conduct has been willful, wanton and malicious, and done with the intent to deceive. ESP therefore is entitled to an award of its reasonable attorneys' fees and costs, and treble its actual damages, pursuant to 15 U.S.C. § 1117(a). ESP also is entitled to, among other things, the cost of corrective advertising.

**COUNT III**

**UNFAIR COMPETITION UNDER CALIFORNIA STATUTORY LAW**

28. Plaintiffs repeat and reallege each and every allegation contained in the preceding paragraphs as though fully set forth herein.







1 punitive damages in an amount according to proof such that Defendant will not  
2 engage in such conduct in the future and have it serve as an example to others.  
3

4 **COUNT VI**

5 **FEDERAL TRADEMARK DILUTION (15 U.S.C. § 1125(C)(1))**

6 46. Plaintiffs repeat and reallege each and every allegation contained  
7 in the preceding paragraphs as though fully set forth herein.

8 47. The ESP Trademark is distinctive and famous within the meaning  
9 of such terms in 15 U.S.C. § 1125(c), and Defendant's use of the ESP Trade-  
10 mark commenced long after the ESP Trademark became distinctive and fam-  
11 ous.

12 48. Defendant's unlawful actions are likely to and have caused dilution  
13 of the famous and distinctive qualities of the ESP Trademark.

14 49. Plaintiff has no adequate remedy at law, and is suffering irrepara-  
15 ble harm and damage as a result of the acts of Defendant as aforesaid in an  
16 amount to be determined at trial.

17 50. ESP is informed and believes, and on that basis alleges, that De-  
18 fendant's aforesaid infringing conduct has been willful, wanton and malicious,  
19 and done with the intent to deceive. ESP therefore is entitled to an award of its  
20 reasonable attorneys' fees and costs, and treble its actual damages, pursuant to  
21 15 U.S.C. § 1117(a). ESP also is entitled to, among other things, the cost of  
22 corrective advertising.  
23

24 **COUNT VII**

25 **DILUTION – CAL. BUS. & PROF. C. SEC. 14247**

26 51. Plaintiffs repeat and reallege each and every allegation contained  
27 in the preceding paragraphs as though fully set forth herein.

28 52. Plaintiffs assert that its ESP Trademark is suitably recognized by

1 the relevant consuming public, or by a geographic area of this state, and serves  
2 as a designation of the source of its goods and/or services.

3 53. Plaintiffs' ESP Trademark is famous and distinctive, whether inhe-  
4 rently or through acquired distinctiveness, and Plaintiffs are entitled to an in-  
5 junction against Defendants commercial use of the ESP Trademark, since such  
6 use began after the mark had become famous and/or such use is likely to cause  
7 dilution of the famous marks.

8 54. For these reasons, Defendants' use of the ESP Trademark consti-  
9 tutes dilution under California Business & Professions Code Sections 14247.

10  
11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs, ESP Shibuya Enterprises, Inc. and E.S.P. Co.,  
13 Ltd. seek judgment against Defendants, Essential Sound Products, Inc., as fol-  
14 lows:

15 1) That the Defendant, its officers, agents, servants, employees and attor-  
16 neys, and those in active concert or participation with Defendant, be permanent-  
17 ly enjoined and restrained from:

18 a) Using in any manner the ESP Trademark and the Infringing Mark;

19 b) Manufacturing, marketing, advertising, distributing or selling  
20 products bearing the ESP Trademark or the Infringing Mark, including,  
21 without limitation, Defendant's Infringing Goods;

22 c) Representing, suggesting in any fashion to any third party, or per-  
23 forming any act which may give rise to the belief that Defendants, or any  
24 of their goods, are authorized or sponsored by ESP;

25 d) Passing off, inducing or enabling others to sell or pass off any  
26 goods as products produced by ESP; and

27 e) Otherwise competing unfairly with ESP in any manner.  
28

1           2) That Defendant be ordered to deliver up to ESP for destruction, any and  
2 all goods in its possession, or under its control, that infringe the ESP Trade-  
3 mark, pursuant to 15 U.S.C § 1118, or any other application law.

4           3) That ESP be awarded actual damages in an amount to be determined at  
5 trial for infringement of the ESP Trademark as provided by law.

6           4) That Defendant account for and pay over to ESP profits realized by De-  
7 fendant by reason of Defendant's unlawful actions herein alleged and that the  
8 amount of disgorgement for infringement of ESP's registered and incontestable  
9 ESP Trademark be increased by a sum not exceeding three times the amount  
10 thereof as provided by law and that the Court impose whatever final equitable  
11 relief is necessary to achieve the foregoing, including, without limitation, the  
12 imposition of a constructive trust.

13           5) That ESP be awarded reasonable attorneys' fees and costs, pursuant to 15  
14 U.S.C. § 1117.

15           6) Defendant pay ESP's costs of corrective advertising.

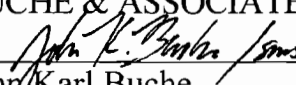
16           7) Defendant be ordered to pay ESP punitive damages as a consequence of  
17 the willful and wonton acts alleged herein.

18           8) Such other and further relief as the Court may deem just and proper.

19  
20 Dated: May 24, 2011

Respectfully submitted,

BUCHE & ASSOCIATES, P.C.

  
\_\_\_\_\_  
John Karl Buche  
Sean M. Sullivan

and

Ronald S. Bienstock (*Pro Hac Vice*)  
BIENSTOCK & MICHAEL, P.C.

Attorneys for Plaintiffs  
ESP Shibuya Enterprises, Inc. and ESP  
Co., Ltd.

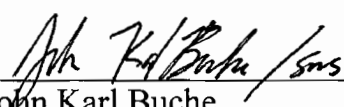
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**DEMAND FOR JURY TRIAL**

Pursuant to the Federal Rules of Civil Procedure, Rule 38(b), and the Local Rule 38-1 of this District, Plaintiffs hereby demand trial by jury on all issues so triable.

BUCHE & ASSOCIATES, P.C.

Dated: May 24, 2011

  
\_\_\_\_\_  
John Karl Buche

**Int. Cl.: 15**

**Prior U.S. Cl.: 36**

**United States Patent and Trademark Office**

**Reg. No. 1,205,405**

**Registered Aug. 17, 1982**

**TRADEMARK**  
Principal Register



ESP Co., Ltd. (Japan corporation)  
1-14-2, Kanda Nishikicho  
Chiyoda-ku, Tokyo, Japan

For: ELECTRIC GUITARS AND STRUCTURAL PARTS THEREOF, in CLASS 15 (U.S. Cl. 36).

First use Feb. 15, 1975; in commerce Mar. 21, 1976.

Applicant disclaims exclusive rights in the descriptive design of a loudspeaker apart from the mark as shown, without waiving any common law rights.

Ser. No. 285,121, filed Nov. 7, 1980.

G. T. GLYNN, Primary Examiner

CONNIE M. JUDGE, Examiner

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ESP Shibuya Enterprises, Inc., a California corporation, E.S.P. Co. Ltd., a Japanese corporation	<b>DEFENDANTS</b> ESSENTIAL SOUND PRODUCTS, INC., a Michigan corporation
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)  John Karl Buche, Sean M. Sullivan BUCHE & ASSOCIATES, P.C., 875 Prospect, Suite 305, La Jolla, California 92037, Tel: 858.459.9111, Fax: 858.459.9120	Attorneys (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;">Citizen of This State</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:40%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;"><input type="checkbox"/> 4</td> <td style="width:10%;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4														
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**IV. ORIGIN** (Place an X in one box only.)

1 Original Proceeding    
  2 Removed from State Court    
  3 Remanded from Appellate Court    
  4 Reinstated or Reopened    
  5 Transferred from another district (specify):    
  6 Multi-District Litigation    
  7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT:**     **JURY DEMAND:**  Yes      No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION under F.R.C.P. 23:**  Yes      No     **MONEY DEMANDED IN COMPLAINT:** \$ \_\_\_\_\_

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

The Lanham Act, Title 15 of the United States Code

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER</b> <b>PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395if) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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**FOR OFFICE USE ONLY:** Case Number: CV11-04463

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District.*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County - ESP Shibuya Enterprises, Inc.	Japan - E.S.P. Co. Ltd.

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District.*	California County outside of this District; State, if other than California; or Foreign Country
	Michigan

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District.*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): John F. Borker / sms Date 5/24/2011

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))